

ESTTA Tracking number: **ESTTA437455**

Filing date: **10/24/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

|                                       |   |
|---------------------------------------|---|
| Name                                  | JanJRigney  |
| Granted to Date of previous extension | 10/23/2011  |
| Address                               | 11880 E. 86th St. N.<br>Owasso, OK 74055<br>UNITED STATES |

|                      |  |
|----------------------|--|
| Attorney information | Frank J. Catalano<br>Gable & Gotwals<br>100 W. 5th Street, Floor 10<br>Tulsa, OK 74103<br>UNITED STATES<br>iplaw@gablelaw.com, aedwards@gablelaw.com |
|----------------------|--|

### Applicant Information

|                        |   |                        |            |
|------------------------|---|------------------------|------------|
| Application No         | 85203324  | Publication date       | 04/26/2011 |
| Opposition Filing Date | 10/24/2011  | Opposition Period Ends | 10/23/2011 |
| Applicant              | Keen, Inc.<br>Suite 210 926 NW 13th Avenue<br>Portland, OR 97209<br>UNITED STATES |                        |            |

### Goods/Services Affected by Opposition


Class 025. First Use: 2003/01/31 First Use In Commerce: 2004/01/01  
All goods and services in the class are opposed, namely: footwear; socks

### Grounds for Opposition

|                                      |                            |
|--------------------------------------|----------------------------|
| Priority and likelihood of confusion | Trademark Act section 2(d) |
|--------------------------------------|----------------------------|

### Mark Cited by Opposer as Basis for Opposition

|                      |          |                       |            |
|----------------------|----------|-----------------------|------------|
| U.S. Application No. | 85077738 | Application Date      | 07/03/2010 |
| Registration Date    | NONE     | Foreign Priority Date | NONE       |
| Word Mark            | KNOW !!  |                       |            |

|                     |  |
|---------------------|--|
| Design Mark         |   |
| Description of Mark | The mark consists of A Triangle with the base on the bottom, and the tip pointing up 90 degrees. Inside the triangle is an exclamation point. Under the triangle is the word "KNOW !". |
| Goods/Services      | Class 025. First use: First Use: 2000/10/23 First Use In Commerce: 2000/10/23<br>A-shirts; Caps  |

|                     |                                    |
|---------------------|------------------------------------|
| Related Proceedings | Opposition Proceeding No. 91200124 |
|---------------------|------------------------------------|

|             |  |
|-------------|--|
| Attachments | 85077738#TMSN.jpeg ( 1 page )( bytes )<br>6360-22Pet-forOpposition.pdf ( 12 pages )(340020 bytes ) |
|-------------|--|

### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

|           |                   |
|-----------|-------------------|
| Signature | /fjc-bampa/       |
| Name      | Frank J. Catalano |
| Date      | 10/24/2011        |

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Serial No. 85/203,324

|                |   |                                 |
|----------------|---|---------------------------------|
| JAN JAY RIGNEY | ) | PETITION FOR OPPOSITION         |
|                | ) | Opposition No. _____            |
| OPPOSER        | ) | Date of Application: 12/21/2010 |
|                | ) |                                 |
| vs.            | ) |                                 |
|                | ) |                                 |
| KEEN, INC.     | ) |                                 |
|                | ) |                                 |
| APPLICANT      | ) |                                 |

**PETITION FOR OPPOSITION**

Jan Jay Rigney, an individual with an address of 11880 East 86th Street North, Owasso, Oklahoma, 74055 (“Opposer”) believes that he is or will be damaged by the mark in Serial No. 85/203,324 if the mark is allowed to register and hereby petitions to oppose same.

To the best of Opposer’s knowledge, the name and address of the current owner of the application (“Applicant”) is:

Keen, Inc.  
Suite 210 926 NW 13th Avenue  
Portland, OR 97209  
United States



**Description of Applicant's application:** Filed on December 21, 2010, for the mark \_\_\_\_\_, in International Class 025 for footwear and socks. The mark consists of an equilateral triangle with the base on the bottom and the tip pointing up 90 degrees, with an exclamation point inside the triangle. The application claims first use on January 31, 2003, and first use in commerce on January 1, 2004. The particulars of said application are attached hereto as Exhibit A.

**As grounds of this Petition, it is alleged that:**

1. Opposer Jan Jay Rigney, an individual living in Owasso, Oklahoma, is the owner



of the mark \_\_\_\_\_.

2. On October 30, 2000, Opposer filed an application for federal trademark registration for the mark in connection with the sale of “stickers and posters” with a first use date of October 16, 2000, and “footwear, headwear, shirts, pants, and jackets” with a first use date of October 23, 2000. The mark was registered on December 4, 2001 as U.S. Trademark Registration No. 2,514,907.

3. Registration No. 2,514,907 was cancelled on September 5, 2008, for failure to file an acceptable declaration under Section 8.

4. On July 3, 2010, Opposer filed Application No. 85/077,738 in the United States



Patent and Trademark Office for registration of the mark \_\_\_\_\_ on the Principal Register in connection with the sale of “A-shirts; Caps” with a first use date of October 23, 2000. A copy of

this application is attached as Exhibit B. The application was published for opposition on December 7, 2010.

5. Applicant filed a notice of opposition to Opposer's application on June 3, 2011, alleging likelihood of confusion, priority, and common law rights. The parties are currently pursuing settlement negotiations in this proceeding.

6. Opposer's use of the mark in connection with the sale of stickers, shirts, and caps has been valid and continuous from at least said date of first use, being October 16, 2000, for stickers and October 23, 2000, for shirts and caps, to the present, and has not been abandoned.

7. Notwithstanding Opposer's rights in its mark, Applicant filed an application for



federal trademark registration of the mark on December 21, 2010. The goods and services identified in the application are footwear and socks, in International Class 025. Applicant claims first use on January 31, 2003, and first use in commerce on January 1, 2004, both of which occurred while Opposer's prior registration was in effect.

8. Applicant's mark was assigned Serial No. 85/203,324. The application was published for opposition on April 26, 2011.

9. In view of the similarity of the respective marks and the related nature of the goods of the respective parties, it is alleged that Applicant's mark so resembles Opposer's mark previously used in the United States, and not abandoned, as to be likely to cause confusion, or to cause mistake, or to deceive, and that Opposer will be damaged by the registration of Applicant's mark.

10. This opposition is timely filed. Opposer filed a request for extension of time to oppose on May 26, 2011, which extended the deadline to June 25, 2011. Opposer filed a second

request for extension of time to oppose on June 22, 2011, which extended the deadline to August 24, 2011. Opposer then filed a third request for extension of time to oppose on August 11, 2011, which extended the deadline to October 23, 2011.

### **RELIEF REQUESTED**

WHEREFORE, Opposer Jan Jay Rigney prays that this Petition for Opposition be granted in his favor and that registration for Serial No. 85/203,324 be denied.

Opposer hereby appoints Frank J. Catalano, Reg. No. 25836, Paul H. Johnson, Reg. No. 19224, Chad M. Hinrichs, Reg. No. 45836, Paul E. Rossler, Reg. No. 60409, and Alicia J. Edwards, Reg. No. 60555, all members of the Bar of the State of Oklahoma and associated with the law firm of Gable & Gotwals, 100 West 5th Street, 10th Floor, Tulsa, Oklahoma, 74013, to act as attorneys for Opposer herein, with full power to prosecute said Petition, to transact all relevant business with the Patent and Trademark Office and in the United States Courts, and to receive official communications with regard to this Petition for Opposition.

The Commissioner is authorized to charge the fee of \$300.00 for this Petition to Deposit Account No. 50-1971. The Commissioner is also authorized to charge any additional costs or credit any overpayments involving this Petition to Deposit Account No. 50-1971.

Respectfully submitted,

By: 

Frank J. Catalano, Reg. #25836 10/24/2011

Paul H. Johnson, Reg. #19224

Chad M. Hinrichs, Reg. #45836

Paul E. Rossler, Reg. #60409

Alicia J. Edwards, Reg. #60555

GABLE & GOTWALS

100 West Fifth Street

Tulsa, OK 74103-4217

Telephone: (918) 595-4801

Facsimile: (918) 595-4990

E-mail: [iplaw@gablelaw.com](mailto:iplaw@gablelaw.com)

ATTORNEYS FOR OPPOSER

**CERTIFICATE OF MAILING**

I hereby certify that on this 24th day of October, 2011, a copy of the foregoing Petition for Opposition was served by first class mail, postage prepaid, addressed to the Applicant at the address shown below:

B. Anna McCoy  
Alleman Hall McCoy Russell & Tuttle LLP  
806 SW Broadway, Suite 600  
Portland, OR 97205



Frank J. Catalano



**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on 2011-10-21 16:39:18 ET**

**Exhibit A**

**Serial Number:** 85203324 Assignment Information      Trademark Document Retrieval

**Registration Number:** (NOT AVAILABLE)

**Mark**



**(words only): !**

**Standard Character claim:** No

**Current Status:** A request for an extension of time to file an opposition has been filed with the Trademark Trial and Appeal Board. For further information, see TTABVUE on the Trademark Trial and Appeal Board web page.

**Date of Status:** 2011-05-26

**Filing Date:** 2010-12-21

**Transformed into a National Application:** No

**Registration Date:** (DATE NOT AVAILABLE)

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 101

**Attorney Assigned:**  
GOODSAID IRA J

**Current Location:** 650 -Publication And Issue Section

**Date In Location:** 2011-03-22

---

**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

I. Keen, Inc.

**Address:**

Keen, Inc.  
Suite 210 926 NW 13th Avenue  
Portland, OR 97209  
United States  
**Legal Entity Type:** Corporation  
**State or Country of Incorporation:** Delaware

---

### GOODS AND/OR SERVICES

---

**International Class:** 025  
**Class Status:** Active  
footwear; socks  
**Basis:** 1(a)  
**First Use Date:** 2003-01-31  
**First Use in Commerce Date:** 2004-01-01

---

### ADDITIONAL INFORMATION

---

**Color(s) Claimed:** Color is not claimed as a feature of the mark.

**Description of Mark:** The mark consists of an equilateral triangle with the base on the bottom and the tip pointing up 90 degrees. Inside the triangle is an exclamation point.

**Design Search Code(s):**

**24.17.14** - Ampersands (&); At symbol (@); Brackets, punctuation; Commas; Diacritical marks; Exclamation points (!); Punctuation marks; Question marks (?)  
**26.05.02** - Plain single line triangles; Triangles, plain single line

---

### MADRID PROTOCOL INFORMATION

---

(NOT AVAILABLE)

---

### PROSECUTION HISTORY

---

**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2011-05-26 - Extension Of Time To Oppose Received  
2011-04-26 - Published for opposition  
2011-04-06 - Notice of publication  
2011-03-22 - Approved for Pub - Principal Register (Initial exam)  
2011-03-21 - Assigned To Examiner  
2010-12-31 - Notice Of Design Search Code Mailed

2010-12-30 - New Application Office Supplied Data Entered In Tram

2010-12-24 - New Application Entered In Tram

---

**ATTORNEY/CORRESPONDENT INFORMATION**

---

**Attorney of Record**

B. Anna McCoy

**Correspondent**

B. ANNA MCCOY

ALLEMAN HALL MCCOY RUSSELL & TUTTLE LLP

806 SW BROADWAY STE 600

PORTLAND, OR 97205-3335

Phone Number: 503-459-4141

Fax Number: 503-459-4142

---

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-10-21 16:52:50 ET

**Exhibit B**

**Serial Number:** 85077738 Assignment Information      Trademark Document Retrieval

**Registration Number:** (NOT AVAILABLE)

**Mark**



**(words only):** KNOW !!

**Standard Character claim:** No

**Current Status:** An opposition after publication is pending at the Trademark Trial and Appeal Board. For further information, see TTABVUE on the Trademark Trial and Appeal Board web page.

**Date of Status:** 2011-06-06

**Filing Date:** 2010-07-03

**Filed as TEAS Plus Application:** Yes

**Currently TEAS Plus Application:** Yes

**Transformed into a National Application:** No

**Registration Date:** (DATE NOT AVAILABLE)

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 111

**Attorney Assigned:**  
FOSDICK GEOFFREY A

**Current Location:** 650 -Publication And Issue Section

**Date In Location:** 2010-10-30

---

**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

1. Jan Jay Rigney

**Address:**

Jan Jay Rigney  
11880 E. 86th St. N.  
Owasso, OK 74055  
United States

**Legal Entity Type:** Individual**Country of Citizenship:** United States**Phone Number:** 918-272-3937**Fax Number:** 918-272-4251

---

**GOODS AND/OR SERVICES**

---

**International Class:** 025**Class Status:** Active

A-shirts; Caps

**Basis:** 1(a)**First Use Date:** 2000-10-23**First Use in Commerce Date:** 2000-10-23

---

**ADDITIONAL INFORMATION**

---

**Color(s) Claimed:** Color is not claimed as a feature of the mark.**Description of Mark:** The mark consists of A Triangle with the base on the bottom, and the tip pointing up 90 degrees. Inside the triangle is an exclamation point. Under the triangle is the word "KNOW !".**Design Search Code(s):**

26.05.02 - Plain single line triangles; Triangles, plain single line

---

**MADRID PROTOCOL INFORMATION**

---

(NOT AVAILABLE)

---

**PROSECUTION HISTORY**

---

**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2011-06-06 - Opposition instituted for Proceeding

2010-12-20 - Extension Of Time To Oppose Received

2010-12-07 - Notice Of Publication E-Mailed

2010-12-07 - Published for opposition

2010-10-30 - Law Office Publication Review Completed

2010-10-28 - Assigned To LIE

2010-10-15 - Approved for Pub - Principal Register (Initial exam)

2010-10-14 - Assigned To Examiner

2010-07-14 - Notice Of Design Search Code Mailed

2010-07-13 - New Application Office Supplied Data Entered In Tram

2010-07-07 - New Application Entered In Tram

---

**ATTORNEY/CORRESPONDENT INFORMATION**

---

**Correspondent**

JAN JAY RIGNEY

11880 E 86TH ST N

OWASSO, OK 74055-2535

Phone Number: 918-272-3937

Fax Number: 918-272-4251

---